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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,254	05/07/2001	Eizo Kato	18920.0018	8562
23517	7590	01/23/2004	EXAMINER	
SWIDLER BERLIN SHEREFF FRIEDMAN, LLP			MENDOZA, ROBERT J	
3000 K STREET, NW			ART UNIT	
BOX IP			PAPER NUMBER	
WASHINGTON, DC 20007			3713	

DATE MAILED: 01/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

09/849,254

Applicant(s)

KATO, EIZO

Examiner

Robert J Mendoza

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-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

**Detailed Action**

**Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1, 2 and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Sporgis (USPN 6,320,495).**

Sporgis discloses a game device comprising communication, analysis and sending means for interchanging analyzed information/parameters and results needed for a process of a game from a player's side to a station's side through a communication line, wherein the results include coordinates for directing player's side to a destination by disclosing in col. 2:51-67 & col. 3:1-3, each player is equipped with a mobile wireless communication device, ideally web enables, that incorporates a GPS receiver. The communication device may be hand held, or it may be mounted in a vehicle such as a car or a boat. A "gamemaster" computer program is designed to run the treasure hunt. The players' GPS receivers receive navigation data from GPS satellites and determine players locations. Player locations are transmitted back to the game master by the players' wireless communication devices. The gamemaster determines the next clue to be given to a particular player based upon the player's location as well as other variables, such as the number of clues the player has correctly answered and the position of the other players. A wide variety of clues or directions, or player options could also be utilized. Sporgis, in col. 5:23-28,

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discloses a specific key word specified by the player's side. It is inherent for Sporgis to a storing means in order to store clues that are given to game players, and software to interpret and update the location of each game player.

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 6, 7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sporgis in view of Miyamoto et al. (USPN 6,331,146).**

The disclosure of Sporgis has been discussed above and is, therefore, incorporated herein. Sporgis discloses a game device comprising communication, analysis and sending means for interchanging analyzed information/parameters and results needed for a process of a game from a player's side to a station's side through a communication line, wherein the results include coordinates for directing player's side to a destination. However, Sporgis lacks in disclosing a hint as to the process of a game from the station's side to the players' side. Miyamoto, in an analogous video game system, teaches in col. 27:53-55, providing a hint as to the process of a game from the station's side to the players' side. Miyamoto teaches this facet of the game with the intention of providing clues on how players can attain certain items game. It would be obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the concept of providing a hint as to the process of a game from the station's side to

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the players' side taught into the invention of Sporgis; in order to, add difficulty and an element of inquisition to a game and thus a greater challenge to the player.

**Claims 3, 8, 11, 15, 16, 21, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sporgis in view of Nishino (USPN 6,409,603).**

The disclosure of Sporgis has been discussed above and is, therefore, incorporated herein. Sporgis discloses a game device comprising communication, analysis and sending means for interchanging analyzed information/parameters and results needed for a process of a game from a player's side to a station's side through a communication line, wherein the results include coordinates for directing player's side to a destination. However, Sporgis lacks in disclosing that a players' side must send a parameter to a station's side within a predetermined time. Nishino, in an analogous game device, teaches inducing a players' side to send a parameter to a station's side within a predetermined time (col. 5:5-17). Nishino teaches this aspect in an attempt to force a player to make a game related choice within a given time frame. It would be obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the aspect of inducing a players' side to send parameters to a station's side within a predetermined time taught into the disclosed invention of Sporgis; in order to, to create a continuous and timely flow of data between a game device and game player.

**Claims 4, 9, 12-14, 17-20, 22-24, and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sporgis in view of Miyamoto in further view of Nishino in further view of Albukerk et al. (USPN 5,929,848).**

The disclosures of Sporgis, Miyamoto and Nishino have been discussed above and are, therefore, incorporated herein. However, Sporgis, Miyamoto and Nishino lack in disclosing a

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parameter so sent that is to needed for the process of a game changes in accordance with weather. Albuquerk, in an analogous game device and game system, teaches, in col. 19:55-67 & col. 20:1-10, a system for providing interpretive information about objects or exhibits taking into account the variances in season, weather, tour group versus individual behaviors, and other variables. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Albuquerk into the disclosed inventions Sporgis, Miyamoto and Nishino. One would be motivated to combine the teachings of Albuquerk with the disclosed inventions of Sporgis, Miyamoto and Nishino in order to, diversify the types of clues provided to the game players by allowing the clues to depend on uncontrollable variables.

#### **Response to Arguments**

Applicant's arguments filed 11/06/03 have been fully considered but they are not persuasive. The Applicant argues that **Sporgis does not disclose information that includes a specific key word specified by the player's side**. The Examiner respectfully disagrees. Sporgis discloses, in col. 5:23-28, players can be required to solve puzzles or other clues and *transmit* the *correct answer* (i.e. key word) gamemaster before receiving *additional* clues. Sporgis is clearly disclosing information that includes a specific key word specified by the player's side.

#### **Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Mendoza whose telephone number is (703) 305-7345. The examiner can normally be reached on Monday-Friday from 8:00am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg, can be reached at (703) 308-1327. The USPTO official fax number is (703) 872-9306.

RM

RM  
January 21, 2004

  
Teresa Walberg  
Supervisory Patent Examiner  
Group 3700